



WEB COPY



W.P.No.15703 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.15703 of 2024 and
W.M.P.Nos.17114 & 17116 of 2024

Zaina International,
Represented by its Proprietor Mr.Odiyandiram Abdul
Mohammed Tanveer Suhaib,
No.1283/C, Kattumani Street,
Vaniyambadi, Thirupathur,
Pin:635 751.

... Petitioner

Versus

The Commercial Tax Officer,
Vepery Assessment Circle, North III,
Chennai North,
Station:No.1, Annex Building,
Room No.110,
1st Floor, Greams Road,
Chennai-600 006.

...Respondents

Prayer : A Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorari to call for the records of the respondent in DRC-07 Reference Number ZD3303240709676/2017-18 dated 13.03.2024 and quash the same as arbitrary and illegal.

For Petitioner	:	Mr.S.Ramanan
For Respondent	:	Mr. V. Prashanth Kiran, Government Advocate (Taxes)

ORDER



W.P.No.15703 of 2024

WEB COPY

In this writ petition, an order dated 13.03.2024 in respect of assessment period 2017-18 is assailed on the ground of breach of principles of natural justice.

2. The petitioner asserts that he was unable to reply to the show cause notice dated 05.01.2024 or participate in proceedings culminating in the impugned order because he shifted his factory premises from Chennai to Vaniyambadi during the relevant period.

3. Learned counsel for the petitioner seeks another opportunity to contest tax demand on merits by pointing out that the petitioner could not participate in proceedings on account of shifting the registered office during the relevant period. On instructions, he states that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He points out that the proceedings against the petitioner originated in an audit conducted in 2023. He also points out that principles of natural justice were complied with by issuing show cause



W.P.No.15703 of 2024

notice dated 05.01.2024 and about three reminders.

WEB COPY

5. On examining the impugned order, it is evident that the assessing officer recorded that there was no reply from the tax payer and therefore proceeded to confirm the tax proposal relating to the defects dealt with in the impugned order. By taking into account the assertion that the petitioner could not participate in proceedings on account of the change in registered office of the petitioner during the relevant period of time, it is just and appropriate that the petitioner be permitted to contest the tax demand on merits by putting the petitioner on terms.

6. For reasons aforesaid, the impugned order dated 13.03.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand within fifteen days from the date of receipt of a copy of this order. Within the said period, the petitioner is permitted to reply to the show cause notice. On receipt of petitioner's reply and on being satisfied that 10% of the disputed tax demand was received, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within three months from the date of receipt of the petitioner's reply.



W.P.No.15703 of 2024

WEB COPY

7. W.P.No.15703 of 2024 is disposed of on the above terms without any order as to costs. Consequently, the connected miscellaneous petitions are also closed.

24.06.2024

Index : Yes /No

Speaking Order : Yes /No

Neutral Case Citation : Yes /No

kal

To

The Commercial Tax Officer,
Vepery Assessment Circle, North III,
Chennai North,



W.P.No.15703 of 2024

Station:No.1, Annex Building,
Room No.110,
1st Floor, Greams Road,
Chennai-600 006.



WEB COPY



W.P.No.15703 of 2024

SENTHILKUMAR RAMAMOORTHY,J.

kal

W.P.No.15703 of 2024 and
W.M.P.Nos.17114 & 17116 of 2024

24.06.2024